[26th August 1955

MR. CHAIRMAN :—" The question is—

' That rule 23 of the Madras Council Rules be suspended and this House do resolve to transact Government Business on Saturday, the 27th August 1955.' "

The motion was carried.

(2) MOTION UNDER RULE 21 (3) OF THE MADRAS COUNCIL RULES.

* THE HON. SRI M. BHAKTAVATSALAM :—" Sir I move—

' *That under rule 21 (3) of the Madras Council Rules, the Code of Criminal Procedure (Madras Amendment) Bill, 1955 (L.A. Bill No. 27 of 1955), be taken up before the Madras Cultivating Tenants Protection Bill, 1955 (L.A. Bill No. 11 of 1955).*' "

MR. CHAIRMAN :—" The question is—

' That under rule 21 (3) of the Madras Council Rules, the Code of Criminal Procedure (Madras Amendment) Bill, 1955 (L.A. Bill No. 27 of 1955), be taken up before the Madras Cultivating Tenants Protection Bill, 1955 (L.A. Bill No. 11 of 1955).' "

The motion was carried.

IV.—GOVERNMENT BILLS.

(1) THE CODE OF CRIMINAL PROCEDURE (MADRAS AMENDMENT) BILL, 1955 (L.A. BILL NO. 27 OF 1955).

* THE HON. SRI C. SUBRAMANIAM :—" Sir, I move—

' *That this House concurs with the Assembly in setting up a Joint Select Committee of both the Houses consisting of 24 Members (16 Members of the Assembly and 8 Members of the Council) to consider the Code of Criminal Procedure (Madras Amendment) Bill, 1955 (L.A. Bill No. 27 of 1955) and that the following members of this House be selected to serve on such a Joint Select Committee :—*

(1) *The Hon. Sri M. Bhaktavatsalam.*

(2) *Sri K. Bhashyam.*

(3) ,, *V. Bashyam Ayyangar.*

(4) ,, *V. Gurunandan Row.*

(5) *Dr. V. K. John.*

(6) *Sri T. M. Narayanaswamy Pillai.*

(7) ,, *K. Balasubramanya Ayyar.*

(8) ,, *A. Gajapathy Nayagar.*'

" Sir, I do not think I need make a speech on this Bill. This is for the purpose of creating a Sessions Court to try the criminal cases within the City of Madras. Now, these cases are being tried by the Original Side of the High Court and we want to bring the City also in line with the other parts of the State.

26th August 1955] [Sri C. Subramaniam]

Such a step has already been taken by the Bombay Government where also the Original Side exists. I do not think the West Bengal Government have yet made a move in this direction. By this we will be relieving one Judge at least in the High Court from the Sessions work so much so he will be able to attend to other work. After all crime within the City and outside the City is the same and there is no justification now in the present circumstances to have a special set up in the High Court for trial of criminal cases in this City. After drafting this Bill, hon. Members might have seen that the Criminal Procedure Code has been amended by Parliament. In view of that, certain consequential amendments have got to be made in our Bill. All these could be considered in the Select Committee." 3-20 p.m.

MR. CHAIRMAN :—" Motion moved—

'That this House concurs with the Assembly in setting up a Joint Select Committee of both the Houses consisting of 24 members (16 members of the Assembly and 8 members of the Council) to consider the Code of Criminal Procedure (Madras Amendment) Bill, 1955 (L.A. Bill No. 27 of 1955) and that the following members of this House be selected to serve on such a Joint Select Committee :—

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(4) ,, V. Gurunandan Row.
(5) Dr. V. K. John.
(6) Sri T. M. Narayanaswamy Pillai.
(7) ,, K. Balasubramanya Ayyar.
(8) ,, A. Gajapathy Nayagar.' "

* SRI K. BHASHYAM :—" Sir, the Government of the day has adopted a policy of relieving the jurisdiction of the High Court, because they have felt that the High Court has not been able to cope with the work on hand and because its work was too heavy. If this Bill is intended to facilitate the clearing of arrears of work that had accumulated in the High Court, certainly it is a welcome measure. The original jurisdiction of the High Court has already been reduced by increasing the jurisdiction of the City Civil Court to try all suits under Rs. 50,000. We have already passed necessary legislation in respect of that. When such a thing has been done on the civil side, this Bill is only a corollary to that, so that even on the criminal side, the jurisdiction of the High Court could be lessened. I would like to say one thing in this connexion.

" Even while we were discussing the Bill increasing the jurisdiction of the City Civil Court to try all suits under Rs. 50,000, I was referring to the difficulty of the practitioners practising in the High Court, the City Civil Court and the Small Cause Court. There are seven courts working and four of them are situated in

the High Court compound itself; the other three are in the Small Cause Court buildings. Persons who are practising in courts in the High Court compound, have to run about and walk to the Small Cause Court, argue the cases there, and then walk back and ascend the stairs back to reach the High Court. The practitioners are thus experiencing a great difficulty, including the practitioners on the original side. I have made the request to the Bar Council, the Bar Association and to the Government. The request is to construct an overbridge connecting the Small Cause Court and High Court. I do not know whether that request has been accepted by Government or not. I would request the Hon. Minister for Law to do the needful in the matter, so that the present difficulties which the practitioners are now experiencing might be overcome.

" As I have already said, once we have passed legislation restricting the original jurisdiction of the High Court to suits of Rs. 50,000 and over, the present Bill is only a consequential one restricting the jurisdiction of the High Court in respect of criminal matters also. This is a natural corollary. I certainly do not object to the present Bill. I support it."

* DR. V. K. JOHN :—" I rise to endorse Mr. Bashyam's suggestion and request that sufficient accommodation must be found in the High Court premises, when sessions work so far as the Madras City is concerned is transferred from the High Court Judge to a District Judge by the present Bill and some work dealt in the original side of the High Court is transferred to the City Civil Court. There is so much congestion and there is not sufficient accommodation for Advocates' rooms. I request the Hon. Law Minister to pay a visit to the High Court and see for himself the scarcity of accommodation there for practitioners. I do request him to make early arrangements to provide sufficient accommodation."

SRI K. BALASUBRAMANYA AYYAR :—" There is one point. In trials in High Court, the jury system is compulsory. In the mufassal, cases could be tried either with jury or assessors. There is difference between trial by a jury and trial by assessors. Even in cases tried in the mufassal courts, there is a section in the Criminal Procedure Code providing for trial by a jury. Trial by jury is a valuable right to the accused. That is what I feel. In the United Kingdom they have realized the value of trial by jury and that is why even in respect of civil cases, they are adopting the trial by jury and take their verdict. I want to know what the policy of the Government is with regard to the cases that are to be tried by the District and Sessions Judge, who is going to be appointed under the present Bill, for trying sessions cases arising in the City. Is the system of trial by jury or trial by assessors going to be be followed here? Trial by jury is a valuable right of the accused. I want to know what the policy of Government is in this regard."

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* SRI A. GAJAPATHY NAYAGAR :—" The question that has got to be faced is that there is no sufficient accommodation in the High Court buildings for all the practitioners. That is the difficulty. In the mufassal, the munsif court would be situated in one place and the sessions Court would be two or three miles away. So far as Madras City is concerned, practice is concentrated in the hands of certain individuals. That is my view. There are instances here wherein one vakil has got to argue a number of cases in a number of courts. Therefore in the interest of litigants and lawyers, it would be better if big advocates like Dr. John were to vacate the big rooms they occupy in the High Court, so that there may be enough room for the vakils to go about and argue their cases conveniently."

SRI V. CHAKKARAI CHETTY :—" It is a long time I have visited the High Court. I should visit it again to have glimpses of the moon, as Shakespeare has put it, to see what it is. If vakils are not able to move and walk to the Small Cause Court from the High Court, I am reminded of one big advocate who was once carried from one court to the other to argue a case, in a trolley because he was too fat and could not move about from one court to the other easily. I would suggest that if our vakils find it difficult to walk, the Hon. Minister for Law could consider the desirability of providing trollies for the vakils so that they could move about from one court to the other court, to argue their cases. The question of accommodation may thus be avoided or evaded. Trollies or some other conveyance may be thus provided." (Laughter.)

* THE HON. SRI C. SUBRAMANIAM :—" Sir, the Government are aware of the accommodation problem in the High Court and also in the City Civil Court and as I already stated when we were considering the amendment to the Civil Court Bill, the Government are considering the question of putting up necessary buildings there. Again, the question is one of finance and whether we could allot sufficient sums. Anyhow, this is under the active consideration of the Government and we hope to take a decision very soon. 3-30 p.m.

" With reference to the Jury system, it was prevalent in the mufassal apart from its being prevalent in the City; even now it is prevalent in the City. But after a good deal of experience, we found, far from its being a valuable right to the accused, it had proved a most valuable right to the jury men. Therefore, it was thought better to abolish trial by Jury in the mufassal. But I am quite aware that so far as the City is concerned it has been acknowledged by everybody that the Jury system has worked well. Some suggestion has been made that as far as the City is concerned, even though it may be the Original Side of the High Court which may function for exercising criminal jurisdiction, the Jury system must be followed. I am prepared to be guided by the members of the Select Committee and this matter can be thrashed out in the Select Committee. As a matter of fact whether it should

be a statutory provision or whether it should be in the form of a power given to the Government or whether the Jury system should be followed by notification, all that we can discuss in the Select Committee. It has been proposed to have the Jury system applicable by notification. That can be considered in the Select Committee. So I think this motion can be accepted."

MR. CHAIRMAN :—" The question is—

' That this House concurs with the Assembly in setting up a Joint Select Committee of both the Houses consisting of 24 members (16 members of the Assembly and 8 members of the Council) to consider the Code of Criminal Procedure (Madras Amendment) Bill, 1955 (L.A. Bill No. 27 of 1955) and that the following members of this House be selected to serve on such a Joint Select Committee :—

(1) The Hon. Sri M. Bhaktavatsalam.
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(5) Dr. V. K. John.
(6) Sri T. M. Narayanaswamy Pillai.
(7) ,, K. Balasubramanya Ayyar.
(8) ,, A. Gajapathy Nayagar.' "

The motion was carried.

(2) THE MADRAS CULTIVATING TENANTS PROTECTION BILL, 1955 (L.A. BILL NO. 11 OF 1955).

* THE HON. SRI M. A. MANICKAVELU :—" Sir, I move—

' *That the Madras Cultivating Tenants Protection Bill*[a], 1955 (*L.A. Bill No.* 11 *of* 1955), *as passed by the Assembly, be taken into consideration.*'

" Sir, I wish to bring to the notice of the House certain changes made in the Bill by the Joint Select Committee and the Assembly.

" In the definition of ' land ' any house-site belonging to the landlord and let to the cultivating tenant under the same agreement of tenancy has been specifically included by the Joint Select Committee so that the cultivating tenant may also have protection against eviction from any site on which he may have been allowed to reside when the land was given to him for cultivation.

" The Committee considered whether a cultivating tenant who was in possession on 1st December 1954 should be restored under clause 4 of the Bill, if, after eviction, he is cultivating large extents of land elsewhere. The Committee decided that he need not be restored if, when the Act comes into force, he is in possession either as owner or as tenant or as both, of an extent of land exceeding 6-2/3 acres of wet or dry land irrigated from any Government

[a] Printed as Appendix on pages 539–543 infra.